HAND BOOK ON THE LAW OF PARTNERSHIP. By EUGENE ALLEN GILMORE. St. Paul, Minn.: WEST PUBLISHING COMPANY. 1911. pp. xii, 721.

The author is to be congratulated upon the improvement which he has made in George on Partnership—an improvement so great as to warrant the substitution of his own name for that of the previous editor. The book would have been far better, we believe, if Professor Gilmore had never been called upon to revamp George, but had planned and executed a treatise of his own on Partnership. In many parts of the work, where he has cut loose entirely from his predecessor, he displays a thorough knowledge of his subject and his discussion of authorities is excellent.

The traces of Mr. George's influence are especially noticeable in the early part of the volume. For example, the term "Partnership by Estoppel" is continued. It is not strange that Mr. George made this the topic of a separate section, for he followed the fifth edition of Lindley very closely, and Lindley used the title Quasi Partnerships for one of his sections. However, he seems not to have observed Lord Lindley's remark (5th ed., p. 9) that quasi partnerships "are not in fact partnerships at all, and should never be so styled"; and the present edition has ignored the fact that the seventh edition of Lindley discards the term "quasi partnerships" altogether. Neither it, nor the term "Partnership by Estoppel," serves any purpose but that of confusing lawyers and judges, now that the doctrine of *Waugh* v. *Carver* (2 H. Bl. 235) is exploded and the true test of a partnership is conceded to be that of intention.

Another topic brought over from George is that of "Sub-Partnerships." The black-letter heading shows no change in substance, and but one trifling alteration in language. The text has been abbreviated and no longer consists of a verbatim copy of section three of chapter one of book one of the fifth edition of Lindley on Partnership, as it does in George. That the section ought not be have been retained seems to be admitted by Professor Gilmore, who says that a sub-partner "is not a partner, accurately speaking, nor is he under a partnership liability. The term 'sub-partnership' is misleading" (p. 75). It certainly is misleading. Not only is the so-called sub-partner not a member of the main partnership, but he is not a partner of anybody. He and the partner whose interest in the firm's profits he is to share are not carrying on a business with a view to profit. He is simply a creditor of that partner with a special claim on a particular portion of such partner's separate property. (*Ex parte Dodgson, In re Kendall* [1830] Mont. & McAr. 445. The so called sub-partner was allowed to prove his claim against the debtor partner's separate estate.)

Chapters VIII and IX are reproduced with but slight changes from chapters VII and VIII of Mr. George's book and are a repetition to some extent of other portions of the work.

We have noted a few cases of defective proofreading, which can be corrected easily. On page 18, the word "sound" in the sentence "The courts felt that the test was economically sound," should be "unsound." In note 48 on page 28, "Benid's Case," should be "Baird's Case"; and on page 53, the word "found" should be "formed." Whether the confusion in note 6 on page 307 is due to a mistake in proof-reading or to the author's attempt to adapt to his use a portion of Mr. George's text is not clear. Certainly the earlier part of the

sentence in that note appears inconsistent with the later part; and the leading authority cited in the note (*Yorkshire Banking Co.* v. *Beatson* [1880] 5 C. P. D. 109, 49 L. J. C. P. 380) is directly opposed to the statement in the earlier part of the sentence.

Notwithstanding the defects which we have noted—defects due to the limitations put upon the author, we believe, rather than to the author himself—the book is a most useful compilation of existing authorities and contains full citations of late judicial decisions. The author is quite at home with his subject; and, we are convinced, if he had been given a free hand as well as full opportunity in the production of this book, it would have been altogether admirable.

F. M. B.

THE LAW OF THE AIR. By HAROLD D. HAZELTINE, LL.D., Fellow and Law Lecturer of Emmanuel College, &c. London: UNIVERSITY OF LONDON PRESS. 1911. pp. 152.

This book is a careful study of a subject of daily increasing importance.

The author discusses at length the various theories as to the dominion of the air space above the earth, sharply and properly distinguishing air-space from air (p. 11). The futility of M. Fauchille's position that there is a certain space, above which the circulation of air ships is of right free, he deems to be plain from the very admissions of its originator. (p. 21). Ten years ago, when it was first taken, M. Fauchille thought the mean height of this space should be fifteen hundred metres. This was partly to prevent its use for surreptitious photography. Now he finds that the photographic art has been advanced so far that views can be taken at a greater height, and on the other hand that the art of aërial locomotion has been so advanced as to show that the natural level of voyages by dirigible air-ships of every kind is within about five hundred metres above the earth.

The "cannon-shot" limit Mr. Hazeltine rejects, as Krupp guns are said to have a vertical range of eleven thousand five hundred metres. He stands for the doctrine of full political dominion of all air spaces by the subjacent State (p. 29), except so far as international conventions may modify the rule (pp. 31, 143). This is in line with the provisions of the Berlin International Convention of 1906 as to wireless telegraphy, and of that at Paris in 1911, on the Regulation of Aërial Navigation (p. 131). He points out the new complications which would arise in international law if every country had not only lateral frontiers, but upper horizontal or vertical frontiers (p. 133).

In considering the rights of private landowners, under English law, Mr. Hazeltine observes that (p. 58) the theory of a limited ownership of air space is strengthened by the admitted English doctrine that one man may own an upper stratum of certain land, and another a lower stratum, whereas in Roman law no such horizontal division of *dominium* was permitted, and therefore civilians may naturally contend for the rule of *"Cujus est solum, ejus est usque ad coelum."* It may be doubted whether his statement as to the Roman law of landed proprietors is true, except possibly in a very technical sense. Praedial, superficial servitudes in Roman law often gave a real dominion over the servient tenement, shown in the erection and use of permanent structures. Thus one man might own a house and another